

Application No. 10/765,468
Amendment dated January 3, 2006
Reply to Office Action of October 3, 2005

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Remarks/Arguments

Applicants thank the Examiner for the Office Action of October 3, 2005 and the indication of allowable subject matter for claims 32-46 and 48. This submission is in full response thereto. Applicants have cancelled claims 1-8, 14, and 28 and amended claims 9, 11, 15-17, 29-32, and 47. Claims 10, 12-13, 18-27, 33-46, and 48 remain in original form.

In the Office Action, the Examiner made a restriction requirement between claims 1-27 (Group I) and claims 28-48 (Group II). Applicants affirm their election of claims 28-48 with traverse. Applicants respectfully assert that the Examiner improperly restricted the claims because the Examiner has not provided a sufficient explanation as to why there would be a serious burden if the restriction was not required. Applicants note that after cancellation of claims 1-8, 14, and 28, Group I now includes only claims 9-13 and 15-27 and Group II now includes only claims 29-48.

U.S. Patent & Trademark Office restriction practice requires that an Examiner explain why there would be a serious burden upon the Examiner if the restriction is not required. In this case, the Examiner states that the two Groups have acquired a separate status in the art as shown by their different classifications. However, Applicants kindly point out that class 65, subclass 510 (into which claims 9-13 and 15-27 were classified) and class 65, subclass 477 (into which claims 29-48 were classified) each require production of: (a) rodlike stock of sufficiently small diameter, either (i) as continuous filaments of indefinite length, or (ii) short discrete pieces; or (b) stock material intended to be used in fiber and filament making. Applicants respectfully assert that claims 9-13, 15-27, and 29-48 do not recite any elements such that the items in (a) and (b) above are produced. Rather, the claims are directed to cooling a fiber. On the other hand, Applicants respectfully submit that the two Groups are more properly classified into a single subclass: class 65, subclass 160. As such, the Examiner has not provided a sufficient

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explanation as to a burden and Applicants respectfully request withdrawal of the restriction requirement.

In the Office Action, the Examiner also rejected 28-31 and 47 under 35 USC 103(a). Applicants have cancelled claim 28, so the rejections remain only as to claims 29-31 and 47. Applicants have rewritten allowable subject matter-containing claim 32 into independent form and amended claims 29-31 and 47 so that they depend from claim 32. Thus, Applicants respectfully traverse the rejection, because the above references fail to disclose, teach or suggest all of the amended claim limitations as recognized by the Examiner. As such, Applicants respectfully request withdrawal of the rejection.

Applicants have also amended withdrawn claims 9 and 27 to substantially include all the elements of allowed claim 48. Claims 10-12 and 15-26 all depend from claim 9. Thus, Applicants respectfully assert that the indication of allowable subject matter for claim 48 is equally applicable as to claims 9-13 and 15-27. In the event that the Examiner disagrees with Applicants in that the restriction was improperly made, Applicants respectfully request rejoinder of withdrawn claims 9-13 and 15-27 upon the basis that the claims to be rejoined contain all of the limitations of allowed claim 48.

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited.

Should the Examiner believe that a telephone call would expedite prosecution of the application, she is invited to call the undersigned attorney at the number listed below. It is believed that no fee is due at this time. If that belief is incorrect, please debit deposit account number 01-1375. Also, the Commissioner is authorized to credit any overpayment to deposit account number 01-1375.

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Respectfully submitted,

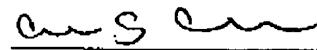


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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8(a)

I hereby certify that this correspondence is being transmitted via facsimile to telephone number 571-273-8300 on this 3rd day of January, 2006.


Christopher J. Cronin